

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by BellSouth
Telecommunications, Inc. for
arbitration of certain issues in
interconnection agreement with
Supra Telecommunications and
Information Systems, Inc.

DOCKET NO. 001305-TP
ORDER NO. PSC-02-0702-CFO-TP
ISSUED: May 23, 2002

ORDER GRANTING, IN PART, AND DENYING, IN PART, REQUEST FOR
CONFIDENTIAL CLASSIFICATION OF
DOCUMENT NO. 05000-02
(CROSS-REFERENCED DOCUMENT NO. 04291-02)

On September 1, 2000, BellSouth Telecommunications, Inc. (BellSouth) filed a petition for arbitration of certain issues in an interconnection agreement with Supra Telecommunications and Information Systems, Inc. (Supra). Supra filed its response, and this matter was set for hearing. An administrative hearing was held on September 26-27, 2001.

On May 8, 2002, BellSouth filed its Request for Specified Confidential Classification of its Opposition to Supra's Motion for Reconsideration and Clarification (Opposition). Therein, BellSouth seeks confidential treatment of certain information identified in its Opposition to Supra's Motion, which BellSouth contends must be treated as confidential.

Specifically, BellSouth seeks confidential treatment for page 2 of its Opposition, lines 18-23, because the information contained therein substantively references the parties' commercial arbitration awards. BellSouth contends that the parties are contractually prohibited from disclosing this information, and the U.S. District Court for the Southern District of Florida has also required that the parties maintain this information as confidential. BellSouth further contends that certain information identified in these lines is customer-specific account information. BellSouth maintains that this information qualifies as proprietary confidential business information under Section 364.183, Florida Statutes, and that it has not otherwise been disclosed.

Florida law presumes that documents submitted to governmental agencies shall be public records. The only exceptions to this presumption are the specific statutory exemptions provided in the law and exemptions granted by governmental agencies pursuant to the

DOCUMENT NUMBER-DATE

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specific terms of a statutory provision. This presumption is based on the concept that government should operate in the "sunshine." Rule 25-22.006(4)(c), Florida Administrative Code, provides that it is the Company's burden to demonstrate that the documents fall into one of the statutory examples set out in Section 364.183, Florida Statutes, or to demonstrate that the information is proprietary confidential information, the disclosure of which will cause the Company or its ratepayers harm.

Section 364.183(3), Florida Statutes, in pertinent part, provides:

The term "proprietary confidential business information" means information, regardless of form or characteristics, which is owned or controlled by the person or company, is intended to be and is treated by the person or company as private in that the disclosure of the information would cause harm to the ratepayers or the person's or company's business operations, and has not been disclosed unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or private agreement that provides that the information will not be released to the public.

Based on the definition of proprietary confidential business information in Section 364.183(3), Florida Statutes, I find that only certain portions of the information identified in BellSouth's Request for Confidential Classification shall be granted confidential classification. Specifically, the information at page 2, lines 18-19 and 22-23, appears to meet the definition of proprietary confidential business information set forth in Section 364.183(3), Florida Statutes, and this information does not appear to have already been disclosed. Furthermore, certain information contained in these lines appears to be customer-specific account information, which should be protected in accordance with Section 364.24, Florida Statutes. This information shall, therefore, be granted confidential classification.

The information contained in lines 20-21 appears, however, to have already been made public. Once disclosed, it is not possible to afford this information confidential treatment! The information

has not been disclosed pursuant to ". . . a statutory provision, an order of a court or administrative body, or private agreement," as allowed by Section 364.183, Florida Statutes. Instead, the information contained in these lines refers to published rates of this Commission and apparent public statements of Supra. Therefore, BellSouth's Request for Confidential Classification of its Opposition to Supra's Motion for Reconsideration and Clarification, Document No. 05000-02 and cross-referenced Document No. 04291-02, is hereby granted, in part, and denied, in part.

Based on the foregoing, it is therefore

ORDERED by Commissioner Michael A. Palecki, as Prehearing Officer, that BellSouth Telecommunications, Inc.'s Request for Specified Confidential Classification of Document No. 05000-02 and cross-referenced Document No. 04291-02 is hereby granted, in part, and denied, in part, to the extent set forth in the body of this Order. It is further


ORDERED that pursuant to Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, the confidentiality granted to the material specified herein shall expire eighteen (18) months from the date of the issuance of this Order, in the absence of a renewed request for confidentiality pursuant to Section 364.183, Florida Statutes. It is further

ORDERED that this Order will be the only notification by the Commission to the parties concerning the expiration of the confidentiality time period. It is further

ORDERED that in accordance with Rule 25-22.006(10), Florida Administrative Code, any material denied confidential classification by this Order shall be kept confidential until the time for filing an appeal has expired.

ORDER NO. PSC-02-0702-CFO-TP
DOCKET NO. 001305-TP
PAGE 4

By ORDER of Commissioner Michael A. Palecki, as Prehearing Officer, this 23rd Day of May, 2002.


MICHAEL A. PALECKI
Commissioner and Prehearing Officer

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.